



January 26, 2006

## HOUSE BILL No. 1250

DIGEST OF HB 1250 (Updated January 25, 2006 12:23 pm - DI 14)

**Citations Affected:** IC 7.1-1; IC 7.1-2; IC 7.1-3; IC 7.1-5.

**Synopsis:** Alcohol beverage matters. Requires that the provisions of the alcohol and tobacco law be strictly construed and that the words used in the law be interpreted according to their literal meanings. Requires: (1) a liquor dealer, beginning January 1, 2007, to display liquor in a clearly designated area where the presence of a minor is prohibited without a parent or guardian who is at least 21 years of age unless the liquor dealer meets certain requirements; and (2) dealer permittees to have at least one employee who holds an employee's permit and, beginning January 1, 2007, ensure that a sales clerk working on the license premises receives training. Provides that the alcohol and tobacco commission may adopt rules to implement these requirements. Prohibits the issuance of an alcoholic beverage employee's permit to an individual with two convictions for operating while intoxicated if: (1) the first conviction occurred less than ten years before the date of the permit application; and (2) the individual completed the sentence for the second conviction less than two years before the permit application. Provides that if an individual has at least three convictions for operating while intoxicated and the individual completed the sentence for the last conviction more than ten years before the permit application, the individual may apply to the alcohol and tobacco commission for a permit, but the commission may grant or deny the application. Provides for the revocation of a permit upon an individual's subsequent conviction for operating while intoxicated. Provides that an alcoholic beverage permit of any type may not be

(Continued next page)

C  
o  
p  
y

**Effective:** July 1, 2006.

---

---

**Messer, Stutzman, Burton**

---

---

January 10, 2006, read first time and referred to Committee on Public Policy and Veterans Affairs.  
January 25, 2006, amended, reported — Do Pass.

---

---

HB 1250—LS 6982/DI 110+



issued: (1) for an operation outside Indiana; or (2) to an entity that is not domiciled in Indiana. Allows a holder of an alcoholic beverage permit to sell or offer to sell an alcoholic beverage on credit to an individual who does not hold an alcoholic beverage permit. Repeals provisions that: (1) require an individual, partnership, corporation, limited partnership, or limited liability company to meet Indiana residency requirements to obtain a retailer's, dealer's or wholesaler's permit; (2) prohibit the issuance of a retailer's, dealer's, or wholesaler's permit to a partnership unless each member of the partnership possesses the same qualifications required of an individual permit applicant; and (3) exempt certain entities from the Indiana residency requirement. Provides that any city that owns a golf course may obtain a permit for the retail sale of alcoholic beverages. Eliminates the prohibition against: (1) a primary source of supply or wholesaler of alcoholic beverages selling or giving an illuminated advertising sign to a retail permittee or dealer permittee; and (2) a retail or dealer permittee being the recipient of an illuminated advertising sign. Provides that the signs must be displayed in a manner that does not violate the trade practice restrictions of the commission or the law. Requires the alcohol and tobacco commission to issue a permit to the state fair commission. Allows for ten new alcoholic permits within a district in an economic development area with a unit of the National Park Service partially located within the district, and with an international deep water seaport located within the district. Requires the legislative body of the municipality in the district to recommend sites for the permits. Provides that the permits cost \$6,000. Allows for extended time for alcohol sales on New Years Eve if New Years eve falls on a Saturday. Defines as a club an association or corporation in a consolidated city that has been in existence for 25 years, held a bingo licence for ten years, and does not allow persons under the age of 18 to be members, guests, or workers.

**C**  
**O**  
**P**  
**Y**



January 26, 2006

Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

## HOUSE BILL No. 1250

A BILL FOR AN ACT to amend the Indiana Code concerning alcohol and tobacco.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 7.1-1-2-1 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. ~~Construction:~~ (a)  
3 This title is an exercise of the police powers of the state.

4 (b) The classifications and differentiations made in this title are real  
5 and are actually and substantially related to the accomplishment of the  
6 purposes of this title.

7 (c) The provisions of this title shall be ~~liberally construed so as to~~  
8 ~~effectuate the purposes of this title:~~ **strictly construed. The words**  
9 **used in this title shall be interpreted according to their literal**  
10 **meanings.**

11 (d) **In accordance with IC 1-1-1-8, if any provision of this title**  
12 **is held to be invalid or unconstitutional, it is the intention of the**  
13 **state that the remaining provisions of this title shall be construed**  
14 **to:**

15 (1) **further limit rather than expand commerce in alcoholic**  
16 **beverages; and**

17 (2) **maintain a transparent and accountable three (3) tier**



C  
o  
p  
y

1           system of alcoholic beverage distribution by a person with a  
2           substantial presence in Indiana.

3           SECTION 2. IC 7.1-1-3-40.5 IS ADDED TO THE INDIANA  
4           CODE AS A NEW SECTION TO READ AS FOLLOWS  
5           [EFFECTIVE JULY 1, 2006]: **Sec. 40.5. "Sales clerk" means a**  
6           **person who:**

7           (1) rings up; or

8           (2) otherwise records;

9           **an alcoholic beverage sale in the course of the person's employment**  
10          **in a dealer establishment.**

11          SECTION 3. IC 7.1-3-1-14, AS AMENDED BY P.L.224-2005,  
12          SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
13          JULY 1, 2006]: Sec. 14. (a) It is lawful for an appropriate permittee,  
14          unless otherwise specifically provided in this title, to sell alcoholic  
15          beverages each day Monday through Saturday from 7 a.m., prevailing  
16          local time, until 3 a.m., prevailing local time, the following day. Sales  
17          shall cease wholly on Sunday at 3 a.m., prevailing local time, and not  
18          be resumed until the following Monday at 7 a.m., prevailing local time.

19          (b) It is lawful for the holder of a retailer's permit to sell the  
20          appropriate alcoholic beverages for consumption on the licensed  
21          premises only on Sunday from 10 a.m., prevailing local time, until  
22          12:30 a.m., prevailing local time, the following day.

23          (c) It is lawful for the holder of a permit under this article to sell  
24          alcoholic beverages at athletic or sports events held on Sunday upon  
25          premises that:

26               (1) are described in section 25(a) of this chapter;

27               (2) are a facility used in connection with the operation of a paved  
28               track more than two (2) miles in length that is used primarily in  
29               the sport of auto racing; or

30               (3) are being used for a professional or an amateur tournament;  
31          beginning one (1) hour before the scheduled starting time of the event  
32          or, if the scheduled starting time of the event is 1 p.m. or later,  
33          beginning at noon.

34          (d) It is lawful for the holder of a valid beer, wine, or liquor  
35          wholesaler's permit to sell to the holder of a valid retailer's or dealer's  
36          permit at any time.

37          **(e) Notwithstanding subsection (b), if December 31 (New Year's**  
38          **Eve) is on a Saturday, it is lawful for the holder of a supplemental**  
39          **retailer's permit to sell the appropriate alcoholic beverages on**  
40          **Sunday, January 1 from the time provided in subsection (b) until**  
41          **3 a.m. the following day.**

42          SECTION 4. IC 7.1-3-1-25 IS AMENDED TO READ AS

C  
o  
p  
y



FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 25. (a) A city or county listed in this subsection that by itself or in combination with any other municipal body acquires by ownership or by lease any stadium, exhibition hall, auditorium, theater, convention center, or civic center may permit the retail sale of alcoholic beverages upon the premises if the governing board of the facility first applies for and secures the necessary permits as required by this title. The cities and counties to which this subsection applies are as follows:

(1) A consolidated city or its county.

(2) A city of the second class.

(3) A county having a population of more than one hundred eighty-two thousand seven hundred ninety (182,790) but less than two hundred thousand (200,000).

(4) A county having a population of more than one hundred seventy thousand (170,000) but less than one hundred eighty thousand (180,000).

(5) A county having a population of more than one hundred thirty thousand (130,000) but less than one hundred forty-five thousand (145,000).

(6) A county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000).

(7) A city having a population of more than five thousand one hundred thirty-five (5,135) but less than five thousand two hundred (5,200).

(8) A county having a population of more than one hundred twenty thousand (120,000) but less than one hundred thirty thousand (130,000).

(9) A county having a population of more than one hundred eighty thousand (180,000) but less than one hundred eighty-two thousand seven hundred ninety (182,790).

(b) A county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) or a township located in such a county that has established a public park with a golf course within its jurisdiction under IC 36-10-3 or IC 36-10-7 may be issued a permit for the retail sale of alcoholic beverages on the premises of any community center within the park, including a clubhouse, social center, or pavilion.

(c) A township that:

(1) is located in a county having a population of more than one hundred five thousand (105,000) but less than one hundred ten thousand (110,000); and

C  
o  
p  
y



(2) acquires ownership of a golf course;  
 may permit the retail sale of alcoholic beverages upon the premises of  
 the golf course, if the governing board of the golf course first applies  
 for and secures the necessary permits required by this title.

(d) A township:

(1) having a population of more than thirty-five thousand (35,000)  
 but less than one hundred thousand (100,000); and

(2) located in a county having a population of more than four  
 hundred thousand (400,000) but less than seven hundred thousand  
 (700,000);

may be issued a permit for the retail sale of alcoholic beverages on the  
 premises of any community center or social center that is located  
 within the township and operated by the township.

(e) A city that

~~(1) has a population of:~~

~~(A) more than fifty-nine thousand seven hundred (59,700) but  
 less than sixty-five thousand (65,000); or~~

~~(B) more than forty-six thousand five hundred (46,500) but  
 less than fifty thousand (50,000); and~~

~~(2) owns a golf course~~

may permit the retail sale of alcoholic beverages upon the premises of  
 the golf course if the governing board of the golf course first applies for  
 and secures the necessary permits required by this title.

(f) A city that:

(1) has a population of more than thirty-two thousand (32,000)  
 but less than thirty-two thousand eight hundred (32,800); and

(2) owns or leases a marina;

may permit the retail sale of alcoholic beverages upon the premises of  
 the marina, if the governing board of the marina first applies for and  
 secures the necessary permits required by this title. The permit may  
 include the carryout sale of alcoholic beverages in accordance with  
 IC 7.1-3-4-6(c), IC 7.1-3-9-9(c), IC 7.1-3-14-4(c), and 905 IAC 1-29  
 but may not include at-home delivery of alcoholic beverages.

(g) A city listed in this subsection that owns a marina may be issued  
 a permit for the retail sale of alcoholic beverages on the premises of the  
 marina. The permit may include the carryout sale of alcoholic  
 beverages in accordance with IC 7.1-3-4-6(c), IC 7.1-3-9-9(c),  
 IC 7.1-3-14-4(c), and 905 IAC 1-29 but may not include at-home  
 delivery of alcoholic beverages. However, the city must apply for and  
 secure the necessary permits that this title requires. This subsection  
 applies to the following cities:

(1) A city having a population of more than ninety thousand

C  
o  
p  
y



(90,000) but less than one hundred five thousand (105,000).

(2) A city having a population of more than seventy-five thousand (75,000) but less than ninety thousand (90,000).

(3) A city having a population of more than thirty-two thousand eight hundred (32,800) but less than thirty-three thousand (33,000).

(4) A city having a population of more than thirty-three thousand (33,000) but less than thirty-six thousand (36,000).

(5) A city having a population of more than twenty-seven thousand (27,000) but less than twenty-seven thousand four hundred (27,400).

(h) Notwithstanding subsection (a), the commission may issue a civic center permit to a person that:

(1) by the person's self or in combination with another person is the proprietor, as owner or lessee, of an entertainment complex; or

(2) has an agreement with a person described in subdivision (1) to act as a concessionaire for the entertainment complex for the full period for which the permit is to be issued.

SECTION 5. IC 7.1-2-3-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 16. (a) The commission shall have the power to regulate and prohibit advertising, signs, displays, posters, and designs intended to advertise an alcoholic beverage or the place where alcoholic beverages are sold.

(b) The commission shall not exercise the prohibition power contained in subsection (a), as to any advertisement appearing in a newspaper which:

(1) is published at least once a week;

(2) regularly publishes information of current news interest to the community; and

(3) circulates generally to the public in any part of this state, regardless of where printed.

However, a newspaper shall not include publications devoted to special interests such as labor, religious, fraternal, society, or trade publications or journals, or publications owned or issued by political organizations or parties.

(c) The commission shall not exercise the prohibition power contained in subsection (a) as to any advertisement broadcast over duly licensed radio and television stations.

(d) All advertisements relating to alcoholic beverages, whether published in a newspaper or broadcast over radio or television, shall conform to the rules and regulations of the commission.

**C  
O  
P  
Y**



(e) The commission shall not exercise the prohibition power contained in subsection (a) as to advertising in the official program of the Indianapolis 500 Race or the Madison Regatta, Inc., Hydroplane Race.

(f) Notwithstanding any other law, the commission may not prohibit the use of an illuminated sign advertising alcoholic beverages by brand name that is displayed within the interior or on the exterior of the premises covered by the permit, regardless of whether the sign is illuminated constantly or intermittently. However, it is unlawful for a primary source of supply or a wholesaler of alcoholic beverages to sell, give, supply, furnish, or grant to, or maintain for, a retail or dealer permittee an illuminated advertising sign **in a manner that violates the trade practice restrictions of the commission or this title.** ~~It is unlawful for a retail or dealer permittee to receive, accept, display, or permit to be displayed; an illuminated advertising sign sold, given, supplied, furnished, granted, or maintained in violation of this subsection.~~

(g) The commission may not prohibit the advertisement of:

- (1) alcoholic beverages; or
- (2) a place where alcoholic beverages may be obtained; in a program, scorecard, handbill, throw-away newspaper, or menu; however, those advertisements must conform to the rules of the commission.

SECTION 6. IC 7.1-3-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. ~~Application.~~ The commission may issue a brewer's permit to a person who desires to commercially manufacture beer **in Indiana.**

SECTION 7. IC 7.1-3-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) Except as provided in subsection (b), the commission may issue a brewer's permit only to:

- (1) an individual;
- (2) a partnership ~~all the partners of which are bona fide residents of Indiana;~~ **domiciled in or admitted to do business in Indiana;**
- (3) a limited liability company ~~all the members of which are bona fide residents of~~ **domiciled in or admitted to do business in** Indiana; or
- (4) a corporation ~~organized and existing under the laws of~~ **domiciled in or admitted to do business in** Indiana. ~~and having authority under its charter to manufacture or sell beer.~~

(b) The commission may issue a brewer's permit to a brewer for a brewery that manufactures not more than twenty thousand (20,000)

C  
o  
p  
y





barrels of beer in a calendar year to:

- (1) an individual;
- (2) a partnership ~~organized and existing under the laws of~~  
**domiciled in or admitted to do business in** Indiana;
- (3) a limited liability company ~~organized and existing under the~~  
~~laws of~~ **domiciled in or admitted to do business in** Indiana; or
- (4) a corporation ~~organized and existing under the laws of~~  
**domiciled in or admitted to do business in** Indiana.

SECTION 8. IC 7.1-3-2-7 IS AMENDED TO READ AS  
FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7. The holder of a  
brewer's permit or an out-of-state brewer holding either a primary  
source of supply permit or an out-of-state brewer's permit may do **only**  
the following:

- (1) Manufacture beer.
- (2) Place beer in containers or bottles.
- (3) Transport beer.
- (4) Sell and deliver beer to a person holding a beer wholesaler's  
permit issued under IC 7.1-3-3.
- (5) If the brewer's brewery manufactures not more than twenty  
thousand (20,000) barrels of beer in a calendar year, do the  
following:
  - (A) Sell and deliver beer to a person holding a retailer or a  
dealer permit under this title.
  - (B) Be the proprietor of a restaurant.
  - (C) Hold a beer retailer's permit, a wine retailer's permit, or a  
liquor retailer's permit for a restaurant established under clause  
(B).
  - (D) Transfer beer directly from the brewery to the restaurant  
by means of:
    - (i) bulk containers; or
    - (ii) a continuous flow system.
  - (E) Install a window between the brewery and an adjacent  
restaurant that allows the public and the permittee to view both  
premises.
  - (F) Install a doorway or other opening between the brewery  
and an adjacent restaurant that provides the public and the  
permittee with access to both premises.
  - (G) Sell the brewery's beer by the glass for consumption on the  
premises. Brewers permitted to sell beer by the glass under  
this clause must furnish the minimum food requirements  
prescribed by the commission.
- (6) If the brewer's brewery manufactures more than twenty

C  
o  
p  
y



thousand (20,000) barrels of beer in a calendar year, own a portion of the corporate stock of another brewery that:

(A) is located in the same county as the brewer's brewery;

(B) manufactures less than twenty thousand (20,000) barrels of beer in a calendar year; and

(C) is the proprietor of a restaurant that operates under subdivision (5).

~~(7) Sell and deliver beer to a consumer at the plant of the brewer or at the residence of the consumer. The delivery to a consumer shall be made only in a quantity at any one (1) time of not more than one-half (1/2) barrel; but the beer may be contained in bottles or other permissible containers.~~

~~(8) (7) Provide complimentary samples of beer that are:~~

(A) produced by the brewer; and

(B) offered to consumers for consumption on the brewer's premises.

~~(9) (8) Own a portion of the corporate stock of a sports corporation that:~~

(A) manages a minor league baseball stadium located in the same county as the brewer's brewery; and

(B) holds a beer retailer's permit, a wine retailer's permit, or a liquor retailer's permit for a restaurant located in that stadium.

~~(10) (9) For beer described in IC 7.1-1-2-3(a)(4):~~

(A) may allow transportation to and consumption of the beer on the licensed premises; and

(B) may not sell, offer to sell, or allow sale of the beer on the licensed premises.

SECTION 9. IC 7.1-3-5-4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 4. (a) A holder of a beer dealer permit must have at least one (1) employee who:**

**(1) works on the licensed premises; and**

**(2) holds an employee's permit under IC 7.1-3-18-9.**

**(b) Beginning January 1, 2007, a holder of a beer dealer permit must ensure that a sales clerk working on the licensed premises receives training approved by the commission and provided by an employee described in subsection (a).**

**(c) The commission may adopt rules under IC 4-22-2 to implement this section.**

SECTION 10. IC 7.1-3-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 2. Persons Eligible for Permits.** The commission may issue a temporary beer permit to a

C  
o  
p  
y



person who is qualified to hold a beer retailer's permit and who has such other qualifications as the commission may prescribe by a provisional order until it adopts a rule or regulation on the matter. However, the special disqualifications listed in ~~IC 1971, 7.1-3-4-2(c), (h), and (m)~~ and the residency requirements provided in ~~IC 1971, 7.1-3-21-3~~; **IC 7.1-3-4-2(a)(3), IC 7.1-3-4-2(a)(8), and IC 7.1-3-4-2(a)(13)** shall not apply to an applicant for a temporary beer permit.

SECTION 11. IC 7.1-3-10-14 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 14. (a) This section does not apply to a package liquor store.**

**(b) Beginning January 1, 2007, and except as provided in subsection (c), a holder of a liquor dealer permit must display liquor for sale in a clearly designated area that forbids the presence of a minor unless the minor is accompanied by a parent or guardian who is at least twenty-one (21) years of age. Other alcoholic beverages may be displayed in a designated area where liquor is displayed under this subsection.**

**(c) The holder of a liquor dealer permit is not required to comply with subsection (b) if the holder of the liquor dealer permit:**

**(1) displays liquor in an area that does not exceed twenty-five (25) linear feet; and**

**(2) uses at least one (1) of the following security measures:**

**(A) The liquor is displayed behind a retail counter or in a locked display case.**

**(B) Each bottle of liquor for sale on the licensed premises has a security cap.**

**(C) The liquor is displayed adjacent to a pharmacy counter.**

**(d) Liquor may not be displayed within thirty (30) feet of a public entrance of a licensed premises.**

**(e) The commission may adopt rules under IC 4-22-2 to implement this section.**

SECTION 12. IC 7.1-3-10-15 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 15. (a) This section does not apply to a package liquor store.**

**(b) A holder of a liquor dealer permit must have at least one (1) employee who:**

**(1) works on the licensed premises; and**

C  
o  
p  
y



(2) holds an employee's permit under IC 7.1-3-18.

(c) Beginning January 1, 2007, a holder of a liquor dealer permit must ensure that a sales clerk working on the licensed premises receives training approved by the commission and provided by an employee described in subsection (a).

(d) The commission may adopt rules under IC 4-22-2 to implement this section.

SECTION 13. IC 7.1-3-15-4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. (a) A holder of a wine dealer permit must have at least one (1) employee who:

(1) works on the licensed premises; and

(2) holds an employee's permit under IC 7.1-3-18.

(b) Beginning January 1, 2007, a holder of a wine dealer permit must ensure that a sales clerk working on the licensed premises receives training approved by the commission and provided by an employee described in subsection (a).

(c) The commission may adopt rules under IC 4-22-2 to implement this section.

SECTION 14. IC 7.1-3-18-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 9. (a) The commission may issue an employee's permit to a person who desires to act as:

(1) a sales clerk in a:

(A) drugstore;

(B) grocery store; or

(C) package liquor store; or ~~as~~

(2) a bartender, waiter, waitress, or manager in a retail establishment. ~~excepting dining car and boat employees.~~

(b) A permit authorized by this section is conditioned upon the compliance by the holder with reasonable rules relating to the permit which the commission may prescribe from time to time.

(c) A permit issued under this section entitles its holder to work for any lawful employer. However, a person may work without an employee's permit for thirty (30) days from the date shown on a receipt for a cashier's check or money order payable to the commission for that person's employee's permit application.

(d) A person who, for a package liquor store or retail establishment, is:

(1) the sole proprietor;

(2) a partner, a general partner, or a limited partner in a partnership or limited partnership that owns the business establishment;

C  
o  
p  
y



(3) a member of a limited liability company that owns the business establishment; or

(4) a stockholder in a corporation that owns the business establishment;

is not required to obtain an employee's permit in order to perform any of the acts listed in subsection (a).

(e) An applicant may declare on the application form that the applicant will use the employee's permit only to perform volunteer service that benefits a nonprofit organization. It is unlawful for an applicant who makes a declaration under this subsection to use an employee's permit for any purpose other than to perform volunteer service that benefits a nonprofit organization.

(f) ~~An applicant is not entitled to~~ **The commission may not issue** an employee's permit if: ~~(1) the~~ **to an applicant while the applicant is** serving a sentence for a conviction for operating while intoxicated, including any term of probation or parole.

~~(2) the~~

**(g) The commission may not issue an employee's permit to an applicant who has more than one (1) but less than three (3) two (2) unrelated convictions for operating while intoxicated and less than two (2) years have elapsed after the applicant completed the applicant's sentence for a conviction for operating while intoxicated, including any term of probation or parole; or if:**

**(1) the first conviction occurred less than ten (10) years before the date of the applicant's application for the permit; and**

**(2) the applicant completed the sentence for the second conviction, including any term of probation or parole, less than two (2) years before the date of the applicant's application for the permit.**

~~(3) the~~

**(h) If an applicant for an employee's permit has at least three (3) unrelated convictions for operating while intoxicated, and the applicant completed the sentence for the most recent conviction at least ten (10) years before the date of the applicant's application for the permit, the commission may grant or deny the issuance of the permit.**

~~(g)~~ **(i) The commission shall revoke a permit issued to an employee under this section if:**

**(1) the employee is convicted of a Class B misdemeanor for violating IC 7.1-5-10-15(a); or**

**(2) the employee becomes ineligible for the issuance of an employee's permit under subsection (f): is convicted of operating**

C  
o  
p  
y



**while intoxicated after the issuance of the permit.**

The commission may revoke a permit issued to an employee under this section for any violation of this title or the rules adopted by the commission.

**(j) This section does not apply to a dining car, boat, or airline employee.**

SECTION 15. IC 7.1-3-20-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. ~~Clubs. General Requirements.~~ **(a)** In order to be considered a "club" within the meaning of this title and to be eligible to receive an appropriate club permit under this title, an association or corporation shall meet the following requirements:

~~(a)~~ **(1)** It shall have been organized in good faith under authority of law.

~~(b)~~ **(2)** It shall have been in active, continuous existence for at least three (3) years prior to the date the application for the permit is filed.

~~(c)~~ **(3)** It shall have maintained, in good faith, a membership roll for the three (3) year period.

~~(d)~~ **(4)** It shall have a paid-up membership of more than fifty (50) members at the time the application is filed.

~~(e)~~ **(5)** It shall be the owner, lessee, or occupant of an establishment operated solely for objects of a national, social, patriotic, political, or athletic nature, or the like.

~~(f)~~ **(6)** It shall not be operated for pecuniary gain.

~~(g)~~ **(7)** The property and the advantages of the organization shall belong to its members. ~~and~~

~~(h)~~ **(8)** It shall maintain an establishment provided with special space and ~~accommodations~~ **accommodations** where, in consideration of payment, food, with or without lodging, is habitually served.

**(b) An association or a corporation located within a consolidated city is considered a club if the association or corporation:**

**(1) has held an annual bingo license issued by the state for at least ten (10) consecutive years;**

**(2) has been in existence in Indiana for at least twenty-five (25) years;**

**(3) does not allow a person less than eighteen (18) years of age to be a member, guest, worker, or operator; and**

**(4) complies with subsection (a)(1), (a)(2), (a)(5), (a)(6), and (a)(8).**

C  
o  
p  
y



SECTION 16. IC 7.1-3-20-16, AS AMENDED BY P.L.155-2005, SECTION 1, AS AMENDED BY P.L.214-2005, SECTION 48, AND AS AMENDED BY P.L.224-2005, SECTION 16, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 16. (a) A permit that is authorized by this section may be issued without regard to the quota provisions of IC 7.1-3-22.

(b) The commission may issue a three-way permit to sell alcoholic beverages for on-premises consumption only to an applicant who is the proprietor, as owner or lessee, or both, of a restaurant facility in the passenger terminal complex of a publicly owned airport which is served by a scheduled commercial passenger airline certified to enplane and deplane passengers on a scheduled basis by a federal aviation agency. A permit issued under this subsection shall not be transferred to a location off the airport premises.

(c) The commission may issue a three-way, two-way, or one-way permit to sell alcoholic beverages for on-premises consumption only to an applicant who is the proprietor, as owner or lessee, or both, of a restaurant within a redevelopment project consisting of a building or group of buildings that:

- (1) was formerly used as part of a union railway station;
- (2) has been listed in or is within a district that has been listed in the federal National Register of Historic Places maintained pursuant to the National Historic Preservation Act of 1966, as amended; and
- (3) has been redeveloped or renovated, with the redevelopment or renovation being funded in part with grants from the federal, state, or local government.

A permit issued under this subsection shall not be transferred to a location outside of the redevelopment project.

(d) The commission may issue a three-way, two-way, or one-way permit to sell alcoholic beverages for on-premises consumption only to an applicant who is the proprietor, as owner or lessee, or both, of a restaurant:

- (1) on land; or
- (2) in a historic river vessel;

within a municipal riverfront development project funded in part with state and city money. A permit issued under this subsection may not be transferred.

(e) The commission may issue a three-way, two-way, or one-way permit to sell alcoholic beverages for on-premises consumption only to an applicant who is the proprietor, as owner or lessee, or both, of a restaurant within a renovation project consisting of a building that:

**C  
o  
p  
y**



(1) was formerly used as part of a passenger and freight railway station; and

(2) was built before 1900.

The permit authorized by this subsection may be issued without regard to the proximity provisions of IC 7.1-3-21-11.

(f) The commission may issue a three-way permit for the sale of alcoholic beverages for on-premises consumption at a cultural center for the visual and performing arts to a town that:

(1) is located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); and

(2) has a population of more than twenty thousand (20,000) but less than twenty-three thousand (23,000).

(g) *After June 30, 2005, the commission may issue not more than ten (10) new three-way, two-way, or one-way permits to sell alcoholic beverages for on-premises consumption to applicants, each of whom must be the proprietor, as owner or lessee, or both, of a restaurant located within a district, or not more than five hundred (500) feet from a district, that meets the following requirements:*

(1) *The district has been listed in the National Register of Historic Places maintained under the National Historic Preservation Act of 1966, as amended.*

(2) *A county courthouse is located within the district.*

(3) *A historic opera house listed on the National Register of Historic Places is located within the district.*

(4) *A historic jail and sheriff's house listed on the National Register of Historic Places is located within the district.*

*The legislative body of the municipality in which the district is located shall recommend to the commission sites that are eligible to be permit premises. The commission shall consider, but is not required to follow, the municipal legislative body's recommendation in issuing a permit under this subsection. An applicant is not eligible for a permit if, less than two (2) years before the date of the application, the applicant sold a retailer's permit that was subject to IC 7.1-3-22 and that was for premises located within the district described in this section or within five hundred (500) feet of the district. A permit issued under this subsection shall not be transferred. The cost of an initial permit issued under this subsection is six thousand dollars (\$6,000).*

~~(g)~~ (h) *The commission may issue a three-way permit for the sale of alcoholic beverages for on premises consumption to an applicant who will locate as the proprietor, as owner or lessee, or both, of a restaurant within an economic development area under IC 36-7-14 in:*

C  
o  
p  
y





(1) a town with a population of more than twenty thousand (20,000); or

(2) a city with a population of more than twenty-seven thousand (27,000) but less than twenty-seven thousand four hundred (27,400);

located in a county having a population of more than ninety thousand (90,000) but less than one hundred thousand (100,000). The commission may issue not more than five (5) licenses under this section to premises within a municipality described in subdivision (1) and not more than five (5) licenses to premises within a municipality described in subdivision (2). The commission shall conduct an auction of the permits under IC 7.1-3-22-9, except that the auction may be conducted at any time as determined by the commission. Notwithstanding any other law, the minimum bid for an initial license under this subsection is thirty-five thousand dollars (\$35,000), and the renewal fee for a license under this subsection is one thousand three hundred fifty dollars (\$1,350). Before the district expires, a permit issued under this subsection may not be transferred. After the district expires, a permit issued under this subsection may be renewed, and the ownership of the permit may be transferred, but the permit may not be transferred from the permit premises.

**(i) After June 30, 2006, the commission may issue not more than ten (10) new three-way, two-way, or one-way permits to sell alcoholic beverages for on-premises consumption to applicants, each of whom must be the proprietor, as owner or lessee, or both, of a restaurant located within a district, or not more than five hundred (500) feet from a district, that meets all of the following requirements:**

**(1) The district is within an economic development area, an area needing redevelopment, or a redevelopment district as established under IC 36-7-14.**

**(2) A unit of the National Park Service is partially located within the district.**

**(3) A international deep water seaport is located within the district.**

**The legislative body of the municipality in which the district is located shall recommend to the commission sites that are eligible to be permit premises. The commission shall consider, but is not required to follow, the municipal legislative body's recommendation in issuing a permit under this subsection. An applicant is not eligible for a permit under this subsection if, less than two (2) years before the date of the application, the applicant**

**C  
o  
p  
y**



1 sold a retailers' permit that was subject to IC 7.1-3-22 and that was  
 2 for premises located within the district described in this subsection  
 3 or within five hundred (500) feet of the district. A permit issued  
 4 under this subsection may not be transferred. If the commission  
 5 issues ten (10) new permits under this subsection, and a permit  
 6 issued under this subsection is later revoked or is not renewed, the  
 7 commission may issue another new permit, as long as the total  
 8 number of active permits issued under this subsection does not  
 9 exceed ten (10) at any time. The cost of an initial permit issued  
 10 under this section is six thousand dollars (\$6,000).

11 SECTION 17. IC 7.1-3-21-14 IS AMENDED TO READ AS  
 12 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 14. ~~Indiana State Fair.~~  
 13 (a) The commission shall ~~not~~ issue a permit for the sale of alcoholic  
 14 beverages on the Indiana state fair grounds ~~to the Indiana state fair~~  
 15 ~~commission. during the period of the Indiana State Fair.~~

16 (b) The holder of a permit under this section:

- 17 (1) is entitled to sell alcoholic beverages by the glass on the
- 18 state fair grounds to consumers;
- 19 (2) is entitled to grant multiple vendors of the state fair
- 20 commission separate permits at different locations on the
- 21 state fair grounds to sell alcoholic beverages by the glass
- 22 under the permit;
- 23 (3) is entitled to receive the permit directly from the
- 24 commission without local board approval;
- 25 (4) is not subject to quota restrictions under IC 7.1-3-22-3;
- 26 and
- 27 (5) is entitled to allow a minor to be present in the places on
- 28 the state fair grounds where alcoholic beverages are sold.

29 (c) The holder of a permit under this section must comply with  
 30 the following requirements:

- 31 (1) File a floor plan of the premises where alcoholic beverages
- 32 will be served and consumed.
- 33 (2) Provide that service of alcoholic beverages may be
- 34 performed only by servers certified under IC 7.1-3-1.5.
- 35 (3) Allow sales during the times prescribed under
- 36 IC 7.1-3-1-14.
- 37 (4) Prohibit sales prohibited under IC 7.1-5-10-1 and
- 38 IC 7.1-5-10-17.
- 39 (5) Operate under rules adopted by the commission to protect
- 40 the public interest under IC 7.1-1-1.

41 SECTION 18. IC 7.1-5-10-23 IS ADDED TO THE INDIANA  
 42 CODE AS A NEW SECTION TO READ AS FOLLOWS

C  
o  
p  
y



1 [EFFECTIVE JULY 1, 2006]: **Sec. 23. (a) It is unlawful for a person**  
2 **who is the proprietor of a package liquor store, drug store, or**  
3 **grocery store to allow a purchaser of alcoholic beverages, or any**  
4 **other person who is not a sales clerk, to ring up or otherwise**  
5 **record an alcoholic beverage sale.**

6 (b) It is unlawful for a purchaser of alcoholic beverages, or any  
7 other person who is not a sales clerk, to ring up or otherwise  
8 record an alcoholic beverage sale in a:

9 (1) drug store;

10 (2) grocery store; or

11 (3) package liquor store.

12 SECTION 19. THE FOLLOWING ARE REPEALED [EFFECTIVE  
13 JULY 1, 2006]: IC 7.1-3-21-3; IC 7.1-3-21-4; IC 7.1-3-21-5;  
14 IC 7.1-3-21-5.2; IC 7.1-3-21-5.4; IC 7.1-3-21-6; IC 7.1-3-21-7.

C  
o  
p  
y



## COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy and Veterans Affairs, to which was referred House Bill 1250, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 7.1-1-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. ~~Construction:~~ (a) This title is an exercise of the police powers of the state.

(b) The classifications and differentiations made in this title are real and are actually and substantially related to the accomplishment of the purposes of this title.

(c) The provisions of this title shall be ~~liberally construed so as to effectuate the purposes of this title:~~ **strictly construed. The words used in this title shall be interpreted according to their literal meanings.**

(d) **In accordance with IC 1-1-1-8, if any provision of this title is held to be invalid or unconstitutional, it is the intention of the state that the remaining provisions of this title shall be construed to:**

**(1) further limit rather than expand commerce in alcoholic beverages; and**

**(2) maintain a transparent and accountable three (3) tier system of alcoholic beverage distribution by a person with a substantial presence in Indiana."**

Page 1, delete lines 1 through 17.

Page 2, delete lines 1 through 17.

Page 2, delete lines 26 through 42, begin a new paragraph and insert:

"SECTION 3. IC 7.1-3-1-14, AS AMENDED BY P.L.224-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 14. (a) It is lawful for an appropriate permittee, unless otherwise specifically provided in this title, to sell alcoholic beverages each day Monday through Saturday from 7 a.m., prevailing local time, until 3 a.m., prevailing local time, the following day. Sales shall cease wholly on Sunday at 3 a.m., prevailing local time, and not be resumed until the following Monday at 7 a.m., prevailing local time.

(b) It is lawful for the holder of a retailer's permit to sell the appropriate alcoholic beverages for consumption on the licensed premises only on Sunday from 10 a.m., prevailing local time, until 12:30 a.m., prevailing local time, the following day.

**HB 1250—LS 6982/DI 110+**



**C  
O  
P  
Y**

(c) It is lawful for the holder of a permit under this article to sell alcoholic beverages at athletic or sports events held on Sunday upon premises that:

- (1) are described in section 25(a) of this chapter;
- (2) are a facility used in connection with the operation of a paved track more than two (2) miles in length that is used primarily in the sport of auto racing; or
- (3) are being used for a professional or an amateur tournament; beginning one (1) hour before the scheduled starting time of the event or, if the scheduled starting time of the event is 1 p.m. or later, beginning at noon.

(d) It is lawful for the holder of a valid beer, wine, or liquor wholesaler's permit to sell to the holder of a valid retailer's or dealer's permit at any time.

**(e) Notwithstanding subsection (b), if December 31 (New Year's Eve) is on a Saturday, it is lawful for the holder of a supplemental retailer's permit to sell the appropriate alcoholic beverages on Sunday, January 1 from the time provided in subsection (b) until 3 a.m. the following day.**

SECTION 4. IC 7.1-3-1-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 25. (a) A city or county listed in this subsection that by itself or in combination with any other municipal body acquires by ownership or by lease any stadium, exhibition hall, auditorium, theater, convention center, or civic center may permit the retail sale of alcoholic beverages upon the premises if the governing board of the facility first applies for and secures the necessary permits as required by this title. The cities and counties to which this subsection applies are as follows:

- (1) A consolidated city or its county.
- (2) A city of the second class.
- (3) A county having a population of more than one hundred eighty-two thousand seven hundred ninety (182,790) but less than two hundred thousand (200,000).
- (4) A county having a population of more than one hundred seventy thousand (170,000) but less than one hundred eighty thousand (180,000).
- (5) A county having a population of more than one hundred thirty thousand (130,000) but less than one hundred forty-five thousand (145,000).
- (6) A county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000).



C  
O  
P  
Y

(7) A city having a population of more than five thousand one hundred thirty-five (5,135) but less than five thousand two hundred (5,200).

(8) A county having a population of more than one hundred twenty thousand (120,000) but less than one hundred thirty thousand (130,000).

(9) A county having a population of more than one hundred eighty thousand (180,000) but less than one hundred eighty-two thousand seven hundred ninety (182,790).

(b) A county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) or a township located in such a county that has established a public park with a golf course within its jurisdiction under IC 36-10-3 or IC 36-10-7 may be issued a permit for the retail sale of alcoholic beverages on the premises of any community center within the park, including a clubhouse, social center, or pavilion.

(c) A township that:

(1) is located in a county having a population of more than one hundred five thousand (105,000) but less than one hundred ten thousand (110,000); and

(2) acquires ownership of a golf course;

may permit the retail sale of alcoholic beverages upon the premises of the golf course, if the governing board of the golf course first applies for and secures the necessary permits required by this title.

(d) A township:

(1) having a population of more than thirty-five thousand (35,000) but less than one hundred thousand (100,000); and

(2) located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000);

may be issued a permit for the retail sale of alcoholic beverages on the premises of any community center or social center that is located within the township and operated by the township.

(e) A city that

~~(1) has a population of:~~

~~(A) more than fifty-nine thousand seven hundred (59,700) but less than sixty-five thousand (65,000); or~~

~~(B) more than forty-six thousand five hundred (46,500) but less than fifty thousand (50,000); and~~

~~(2) owns a golf course~~

may permit the retail sale of alcoholic beverages upon the premises of the golf course if the governing board of the golf course first applies for

C  
o  
p  
y



and secures the necessary permits required by this title.

(f) A city that:

- (1) has a population of more than thirty-two thousand (32,000) but less than thirty-two thousand eight hundred (32,800); and
- (2) owns or leases a marina;

may permit the retail sale of alcoholic beverages upon the premises of the marina, if the governing board of the marina first applies for and secures the necessary permits required by this title. The permit may include the carryout sale of alcoholic beverages in accordance with IC 7.1-3-4-6(c), IC 7.1-3-9-9(c), IC 7.1-3-14-4(c), and 905 IAC 1-29 but may not include at-home delivery of alcoholic beverages.

(g) A city listed in this subsection that owns a marina may be issued a permit for the retail sale of alcoholic beverages on the premises of the marina. The permit may include the carryout sale of alcoholic beverages in accordance with IC 7.1-3-4-6(c), IC 7.1-3-9-9(c), IC 7.1-3-14-4(c), and 905 IAC 1-29 but may not include at-home delivery of alcoholic beverages. However, the city must apply for and secure the necessary permits that this title requires. This subsection applies to the following cities:

- (1) A city having a population of more than ninety thousand (90,000) but less than one hundred five thousand (105,000).
- (2) A city having a population of more than seventy-five thousand (75,000) but less than ninety thousand (90,000).
- (3) A city having a population of more than thirty-two thousand eight hundred (32,800) but less than thirty-three thousand (33,000).
- (4) A city having a population of more than thirty-three thousand (33,000) but less than thirty-six thousand (36,000).
- (5) A city having a population of more than twenty-seven thousand (27,000) but less than twenty-seven thousand four hundred (27,400).

(h) Notwithstanding subsection (a), the commission may issue a civic center permit to a person that:

- (1) by the person's self or in combination with another person is the proprietor, as owner or lessee, of an entertainment complex; or
- (2) has an agreement with a person described in subdivision (1) to act as a concessionaire for the entertainment complex for the full period for which the permit is to be issued.

SECTION 5. IC 7.1-2-3-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 16. (a) The commission shall have the power to regulate and prohibit advertising, signs,

**C**  
**O**  
**P**  
**Y**



displays, posters, and designs intended to advertise an alcoholic beverage or the place where alcoholic beverages are sold.

(b) The commission shall not exercise the prohibition power contained in subsection (a), as to any advertisement appearing in a newspaper which:

- (1) is published at least once a week;
- (2) regularly publishes information of current news interest to the community; and
- (3) circulates generally to the public in any part of this state, regardless of where printed.

However, a newspaper shall not include publications devoted to special interests such as labor, religious, fraternal, society, or trade publications or journals, or publications owned or issued by political organizations or parties.

(c) The commission shall not exercise the prohibition power contained in subsection (a) as to any advertisement broadcast over duly licensed radio and television stations.

(d) All advertisements relating to alcoholic beverages, whether published in a newspaper or broadcast over radio or television, shall conform to the rules and regulations of the commission.

(e) The commission shall not exercise the prohibition power contained in subsection (a) as to advertising in the official program of the Indianapolis 500 Race or the Madison Regatta, Inc., Hydroplane Race.

(f) Notwithstanding any other law, the commission may not prohibit the use of an illuminated sign advertising alcoholic beverages by brand name that is displayed within the interior or on the exterior of the premises covered by the permit, regardless of whether the sign is illuminated constantly or intermittently. However, it is unlawful for a primary source of supply or a wholesaler of alcoholic beverages to sell, give, supply, furnish, or grant to, or maintain for, a retail or dealer permittee an illuminated advertising sign **in a manner that violates the trade practice restrictions of the commission or this title. It is unlawful for a retail or dealer permittee to receive, accept, display, or permit to be displayed, an illuminated advertising sign sold, given, supplied, furnished, granted, or maintained in violation of this subsection.**

(g) The commission may not prohibit the advertisement of:

- (1) alcoholic beverages; or
  - (2) a place where alcoholic beverages may be obtained;
- in a program, scorecard, handbill, throw-away newspaper, or menu; however, those advertisements must conform to the rules of the

C  
o  
p  
y





commission.

SECTION 6. IC 7.1-3-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. ~~Application~~. The commission may issue a brewer's permit to a person who desires to commercially manufacture beer **in Indiana**.

SECTION 7. IC 7.1-3-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) Except as provided in subsection (b), the commission may issue a brewer's permit only to:

- (1) an individual;
- (2) a partnership ~~all the partners of which are bona fide residents of Indiana;~~ **domiciled in or admitted to do business in Indiana;**
- (3) a limited liability company ~~all the members of which are bona fide residents of~~ **domiciled in or admitted to do business in** Indiana; or
- (4) a corporation ~~organized and existing under the laws of~~ **domiciled in or admitted to do business in** Indiana. ~~and having authority under its charter to manufacture or sell beer.~~

(b) The commission may issue a brewer's permit to a brewer for a brewery that manufactures not more than twenty thousand (20,000) barrels of beer in a calendar year to:

- (1) an individual;
- (2) a partnership ~~organized and existing under the laws of~~ **domiciled in or admitted to do business in** Indiana;
- (3) a limited liability company ~~organized and existing under the laws of~~ **domiciled in or admitted to do business in** Indiana; or
- (4) a corporation ~~organized and existing under the laws of~~ **domiciled in or admitted to do business in** Indiana.

SECTION 8. IC 7.1-3-2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7. The holder of a brewer's permit or an out-of-state brewer holding either a primary source of supply permit or an out-of-state brewer's permit may do **only** the following:

- (1) Manufacture beer.
- (2) Place beer in containers or bottles.
- (3) Transport beer.
- (4) Sell and deliver beer to a person holding a beer wholesaler's permit issued under IC 7.1-3-3.
- (5) If the brewer's brewery manufactures not more than twenty thousand (20,000) barrels of beer in a calendar year, do the following:

- (A) Sell and deliver beer to a person holding a retailer or a

C  
o  
p  
y



dealer permit under this title.

(B) Be the proprietor of a restaurant.

(C) Hold a beer retailer's permit, a wine retailer's permit, or a liquor retailer's permit for a restaurant established under clause (B).

(D) Transfer beer directly from the brewery to the restaurant by means of:

- (i) bulk containers; or
- (ii) a continuous flow system.

(E) Install a window between the brewery and an adjacent restaurant that allows the public and the permittee to view both premises.

(F) Install a doorway or other opening between the brewery and an adjacent restaurant that provides the public and the permittee with access to both premises.

(G) Sell the brewery's beer by the glass for consumption on the premises. Brewers permitted to sell beer by the glass under this clause must furnish the minimum food requirements prescribed by the commission.

(6) If the brewer's brewery manufactures more than twenty thousand (20,000) barrels of beer in a calendar year, own a portion of the corporate stock of another brewery that:

- (A) is located in the same county as the brewer's brewery;
- (B) manufactures less than twenty thousand (20,000) barrels of beer in a calendar year; and
- (C) is the proprietor of a restaurant that operates under subdivision (5).

~~(7) Sell and deliver beer to a consumer at the plant of the brewer or at the residence of the consumer. The delivery to a consumer shall be made only in a quantity at any one (1) time of not more than one-half (1/2) barrel; but the beer may be contained in bottles or other permissible containers.~~

~~(8)~~ (7) Provide complimentary samples of beer that are:

- (A) produced by the brewer; and
- (B) offered to consumers for consumption on the brewer's premises.

~~(9)~~ (8) Own a portion of the corporate stock of a sports corporation that:

- (A) manages a minor league baseball stadium located in the same county as the brewer's brewery; and
- (B) holds a beer retailer's permit, a wine retailer's permit, or a liquor retailer's permit for a restaurant located in that stadium.

C  
O  
P  
Y



~~(10)~~ **(9)** For beer described in IC 7.1-1-2-3(a)(4):

(A) may allow transportation to and consumption of the beer on the licensed premises; and

(B) may not sell, offer to sell, or allow sale of the beer on the licensed premises.

SECTION 9. IC 7.1-3-5-4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 4. (a) A holder of a beer dealer permit must have at least one (1) employee who:**

**(1) works on the licensed premises; and**

**(2) holds an employee's permit under IC 7.1-3-18-9.**

**(b) Beginning January 1, 2007, a holder of a beer dealer permit must ensure that a sales clerk working on the licensed premises receives training approved by the commission and provided by an employee described in subsection (a).**

**(c) The commission may adopt rules under IC 4-22-2 to implement this section.**

SECTION 10. IC 7.1-3-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 2. Persons Eligible for Permits.** The commission may issue a temporary beer permit to a person who is qualified to hold a beer retailer's permit and who has such other qualifications as the commission may prescribe by a provisional order until it adopts a rule or regulation on the matter. However, the special disqualifications listed in ~~IC 1971, 7.1-3-4-2(c), (h), and (m)~~ and the residency requirements provided in ~~IC 1971, 7.1-3-21-3, IC 7.1-3-4-2(a)(3), IC 7.1-3-4-2(a)(8), and IC 7.1-3-4-2(a)(13)~~ shall not apply to an applicant for a temporary beer permit.

SECTION 11. IC 7.1-3-10-14 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 14. (a) This section does not apply to a package liquor store.**

**(b) Beginning January 1, 2007, and except as provided in subsection (c), a holder of a liquor dealer permit must display liquor for sale in a clearly designated area that forbids the presence of a minor unless the minor is accompanied by a parent or guardian who is at least twenty-one (21) years of age. Other alcoholic beverages may be displayed in a designated area where liquor is displayed under this subsection.**

**(c) The holder of a liquor dealer permit is not required to comply with subsection (b) if the holder of the liquor dealer permit:**

C  
o  
p  
y



- (1) displays liquor in an area that does not exceed twenty-five (25) linear feet; and
- (2) uses at least one (1) of the following security measures:
  - (A) The liquor is displayed behind a retail counter or in a locked display case.
  - (B) Each bottle of liquor for sale on the licensed premises has a security cap.
  - (C) The liquor is displayed adjacent to a pharmacy counter.
- (d) Liquor may not be displayed within thirty (30) feet of a public entrance of a licensed premises.
- (e) The commission may adopt rules under IC 4-22-2 to implement this section.

SECTION 12. IC 7.1-3-10-15 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 15. (a) This section does not apply to a package liquor store.**

**(b) A holder of a liquor dealer permit must have at least one (1) employee who:**

- (1) works on the licensed premises; and**
- (2) holds an employee's permit under IC 7.1-3-18.**
- (c) Beginning January 1, 2007, a holder of a liquor dealer permit must ensure that a sales clerk working on the licensed premises receives training approved by the commission and provided by an employee described in subsection (a).**

**(d) The commission may adopt rules under IC 4-22-2 to implement this section.**

SECTION 13. IC 7.1-3-15-4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 4. (a) A holder of a wine dealer permit must have at least one (1) employee who:**

- (1) works on the licensed premises; and**
- (2) holds an employee's permit under IC 7.1-3-18.**
- (b) Beginning January 1, 2007, a holder of a wine dealer permit must ensure that a sales clerk working on the licensed premises receives training approved by the commission and provided by an employee described in subsection (a).**

**(c) The commission may adopt rules under IC 4-22-2 to implement this section."**

Delete pages 3 through 4.

Page 5, delete lines 1 through 3.

Page 5, line 39, strike "An applicant is not entitled to" and insert

C  
o  
p  
y



**"The commission may not issue".**

Page 5, line 39, strike "if:".

Page 5, line 40, strike "(1) the" and insert **"to an"**.

Page 5, line 40, after "applicant" insert **"while the applicant"**.

Page 5, run in lines 39 through 40.

Page 5, line 42, after "parole" delete ";" and insert ".".

Page 6, line 1, strike "(2) the", begin a new paragraph and insert:

**"(g) The commission may not issue an employee's permit to an"**.

Page 6, line 1, after "applicant" insert **"who"**.

Page 6, line 1, strike "more than one (1) but less than three (3)" and insert **"two (2)"**.

Page 6, line 2, strike "and less".

Page 6, strike lines 3 through 4.

Page 6, line 5, strike "intoxicated, including any term of probation or parole; or" and insert **"if:**

**(1) the first conviction occurred less than ten (10) years before the date of the applicant's application for the permit; and**

**(2) the applicant completed the sentence for the second conviction, including any term of probation or parole, less than two (2) years before the date of the applicant's application for the permit."**

Page 6, line 6, strike "(3) the", begin a new paragraph and insert:

**"(h) If an"**.

Page 6, line 6, after "applicant" insert **"for an employee's permit"**.

Page 6, line 7, delete "intoxicated." and insert **"intoxicated, and the applicant completed the sentence for the most recent conviction at least ten (10) years before the date of the applicant's application for the permit, the commission may grant or deny the issuance of the permit."**

Page 6, line 8, strike "(g)" and insert **"(i)"**.

Page 6, line 12, strike "becomes ineligible for the issuance of an".

Page 6, line 13, strike "employee's permit under subsection (f)." and insert **"is convicted of operating while intoxicated after the issuance of the permit."**

Page 6, delete lines 19 through 42, begin a new paragraph and insert:

**"SECTION 15. IC 7.1-3-20-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. ~~Clubs: General Requirements.~~ (a) In order to be considered a "club" within the meaning of this title and to be eligible to receive an appropriate club permit under this title, an association or corporation shall meet the following requirements:**

**C  
O  
P  
Y**



~~(a)~~ (1) It shall have been organized in good faith under authority of law.

~~(b)~~ (2) It shall have been in active, continuous existence for at least three (3) years prior to the date the application for the permit is filed.

~~(c)~~ (3) It shall have maintained, in good faith, a membership roll for the three (3) year period.

~~(d)~~ (4) It shall have a paid-up membership of more than fifty (50) members at the time the application is filed.

~~(e)~~ (5) It shall be the owner, lessee, or occupant of an establishment operated solely for objects of a national, social, patriotic, political, or athletic nature, or the like.

~~(f)~~ (6) It shall not be operated for pecuniary gain.

~~(g)~~ (7) The property and the advantages of the organization shall belong to its members. ~~and~~

~~(h)~~ (8) It shall maintain an establishment provided with special space and ~~accommodations~~ accommodations where, in consideration of payment, food, with or without lodging, is habitually served.

**(b) An association or a corporation located within a consolidated city is considered a club if the association or corporation:**

**(1) has held an annual bingo license issued by the state for at least ten (10) consecutive years;**

**(2) has been in existence in Indiana for at least twenty-five (25) years;**

**(3) does not allow a person less than eighteen (18) years of age to be a member, guest, worker, or operator; and**

**(4) complies with subsection (a)(1), (a)(2), (a)(5), (a)(6), and (a)(8).**

SECTION 16. IC 7.1-3-20-16, AS AMENDED BY P.L.155-2005, SECTION 1, AS AMENDED BY P.L.214-2005, SECTION 48, AND AS AMENDED BY P.L.224-2005, SECTION 16, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 16. (a) A permit that is authorized by this section may be issued without regard to the quota provisions of IC 7.1-3-22.

(b) The commission may issue a three-way permit to sell alcoholic beverages for on-premises consumption only to an applicant who is the proprietor, as owner or lessee, or both, of a restaurant facility in the passenger terminal complex of a publicly owned airport which is served by a scheduled commercial passenger airline certified to enplane and deplane passengers on a scheduled basis by a federal

C  
O  
P  
Y



aviation agency. A permit issued under this subsection shall not be transferred to a location off the airport premises.

(c) The commission may issue a three-way, two-way, or one-way permit to sell alcoholic beverages for on-premises consumption only to an applicant who is the proprietor, as owner or lessee, or both, of a restaurant within a redevelopment project consisting of a building or group of buildings that:

- (1) was formerly used as part of a union railway station;
- (2) has been listed in or is within a district that has been listed in the federal National Register of Historic Places maintained pursuant to the National Historic Preservation Act of 1966, as amended; and
- (3) has been redeveloped or renovated, with the redevelopment or renovation being funded in part with grants from the federal, state, or local government.

A permit issued under this subsection shall not be transferred to a location outside of the redevelopment project.

(d) The commission may issue a three-way, two-way, or one-way permit to sell alcoholic beverages for on-premises consumption only to an applicant who is the proprietor, as owner or lessee, or both, of a restaurant:

- (1) on land; or
- (2) in a historic river vessel;

within a municipal riverfront development project funded in part with state and city money. A permit issued under this subsection may not be transferred.

(e) The commission may issue a three-way, two-way, or one-way permit to sell alcoholic beverages for on-premises consumption only to an applicant who is the proprietor, as owner or lessee, or both, of a restaurant within a renovation project consisting of a building that:

- (1) was formerly used as part of a passenger and freight railway station; and
- (2) was built before 1900.

The permit authorized by this subsection may be issued without regard to the proximity provisions of IC 7.1-3-21-11.

(f) The commission may issue a three-way permit for the sale of alcoholic beverages for on-premises consumption at a cultural center for the visual and performing arts to a town that:

- (1) is located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); and
- (2) has a population of more than twenty thousand (20,000) but

**C**  
**O**  
**P**  
**Y**



less than twenty-three thousand (23,000).

*(g) After June 30, 2005, the commission may issue not more than ten (10) new three-way, two-way, or one-way permits to sell alcoholic beverages for on-premises consumption to applicants, each of whom must be the proprietor, as owner or lessee, or both, of a restaurant located within a district, or not more than five hundred (500) feet from a district, that meets the following requirements:*

- (1) The district has been listed in the National Register of Historic Places maintained under the National Historic Preservation Act of 1966, as amended.*
- (2) A county courthouse is located within the district.*
- (3) A historic opera house listed on the National Register of Historic Places is located within the district.*
- (4) A historic jail and sheriff's house listed on the National Register of Historic Places is located within the district.*

*The legislative body of the municipality in which the district is located shall recommend to the commission sites that are eligible to be permit premises. The commission shall consider, but is not required to follow, the municipal legislative body's recommendation in issuing a permit under this subsection. An applicant is not eligible for a permit if, less than two (2) years before the date of the application, the applicant sold a retailer's permit that was subject to IC 7.1-3-22 and that was for premises located within the district described in this section or within five hundred (500) feet of the district. A permit issued under this subsection shall not be transferred. The cost of an initial permit issued under this subsection is six thousand dollars (\$6,000).*

*~~(g)~~ (h) The commission may issue a three-way permit for the sale of alcoholic beverages for on premises consumption to an applicant who will locate as the proprietor, as owner or lessee, or both, of a restaurant within an economic development area under IC 36-7-14 in:*

- (1) a town with a population of more than twenty thousand (20,000); or*
- (2) a city with a population of more than twenty-seven thousand (27,000) but less than twenty-seven thousand four hundred (27,400);*

*located in a county having a population of more than ninety thousand (90,000) but less than one hundred thousand (100,000). The commission may issue not more than five (5) licenses under this section to premises within a municipality described in subdivision (1) and not more than five (5) licenses to premises within a municipality described in subdivision (2). The commission shall conduct an auction of the permits under IC 7.1-3-22-9, except that the auction may be conducted*

C  
o  
p  
y





*at any time as determined by the commission. Notwithstanding any other law, the minimum bid for an initial license under this subsection is thirty-five thousand dollars (\$35,000), and the renewal fee for a license under this subsection is one thousand three hundred fifty dollars (\$1,350). Before the district expires, a permit issued under this subsection may not be transferred. After the district expires, a permit issued under this subsection may be renewed, and the ownership of the permit may be transferred, but the permit may not be transferred from the permit premises.*

**(i) After June 30, 2006, the commission may issue not more than ten (10) new three-way, two-way, or one-way permits to sell alcoholic beverages for on-premises consumption to applicants, each of whom must be the proprietor, as owner or lessee, or both, of a restaurant located within a district, or not more than five hundred (500) feet from a district, that meets all of the following requirements:**

- (1) The district is within an economic development area, an area needing redevelopment, or a redevelopment district as established under IC 36-7-14.**
- (2) A unit of the National Park Service is partially located within the district.**
- (3) A international deep water seaport is located within the district.**

**The legislative body of the municipality in which the district is located shall recommend to the commission sites that are eligible to be permit premises. The commission shall consider, but is not required to follow, the municipal legislative body's recommendation in issuing a permit under this subsection. An applicant is not eligible for a permit under this subsection if, less than two (2) years before the date of the application, the applicant sold a retailers' permit that was subject to IC 7.1-3-22 and that was for premises located within the district described in this subsection or within five hundred (500) feet of the district. A permit issued under this subsection may not be transferred. If the commission issues ten (10) new permits under this subsection, and a permit issued under this subsection is later revoked or is not renewed, the commission may issue another new permit, as long as the total number of active permits issued under this subsection does not exceed ten (10) at any time. The cost of an initial permit issued under this section is six thousand dollars (\$6,000).**

**SECTION 17. IC 7.1-3-21-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 14. ~~Indiana State Fair~~.**

**C  
o  
p  
y**



(a) The commission shall ~~not~~ issue a permit for the sale of alcoholic beverages on the Indiana state fair grounds **to the Indiana state fair commission. during the period of the Indiana State Fair.**

(b) The holder of a permit under this section:

- (1) is entitled to sell alcoholic beverages by the glass on the state fair grounds to consumers;
- (2) is entitled to grant multiple vendors of the state fair commission separate permits at different locations on the state fair grounds to sell alcoholic beverages by the glass under the permit;
- (3) is entitled to receive the permit directly from the commission without local board approval;
- (4) is not subject to quota restrictions under IC 7.1-3-22-3; and
- (5) is entitled to allow a minor to be present in the places on the state fair grounds where alcoholic beverages are sold.

(c) The holder of a permit under this section must comply with the following requirements:

- (1) File a floor plan of the premises where alcoholic beverages will be served and consumed.
- (2) Provide that service of alcoholic beverages may be performed only by servers certified under IC 7.1-3-1.5.
- (3) Allow sales during the times prescribed under IC 7.1-3-1-14.
- (4) Prohibit sales prohibited under IC 7.1-5-10-1 and IC 7.1-5-10-17.
- (5) Operate under rules adopted by the commission to protect the public interest under IC 7.1-1-1."

Page 7, delete lines 1 through 9, begin a new paragraph and insert: "SECTION 18. IC 7.1-5-10-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 12. ~~Credit Sales Prohibited.~~ (a) **This section does not apply to a permittee that sells or offers to sell an alcoholic beverage to an individual who does not hold a permit under this title.**

(b) It is unlawful for a permittee to sell, offer to sell, purchase or receive, an alcoholic beverage for anything other than cash. A permittee who extends credit in violation of this section shall have no right of action on the claim.

(c) This section ~~shall~~ **does** not prohibit:

- (1) a permittee from crediting to a purchaser the actual price charged for a package or an original container returned by the original purchaser as a credit on a sale;

C  
o  
p  
y



(2) ~~This section shall not prohibit~~ a permittee from refunding to a purchaser the amount paid by the purchaser for a container, or as a deposit on a container, if it is returned to the permittee;

(3) ~~This section shall not prohibit~~ a manufacturer from extending usual and customary credit for alcoholic beverages sold to a customer who maintains a place of business outside this state when the alcoholic beverages are actually shipped to a point outside this state; **or**

(4) ~~This section shall not prohibit~~ a distiller or a liquor or wine wholesaler from extending credit on liquor, flavored malt beverages, and wine sold to a permittee for a period of fifteen (15) days from the date of invoice, date of invoice included. However, if the fifteen (15) day period passes without payment in full, the wholesaler shall sell to that permittee on a cash on delivery basis only."

Page 7, delete lines 23 through 28, begin a new paragraph and insert:

"SECTION 20. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2006]: IC 7.1-3-21-3; IC 7.1-3-21-4; IC 7.1-3-21-5; IC 7.1-3-21-5.2; IC 7.1-3-21-5.4; IC 7.1-3-21-6; IC 7.1-3-21-7."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1250 as introduced.)

STUTZMAN, Chair

Committee Vote: yeas 7, nays 2.

**C**  
**O**  
**P**  
**Y**

